

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.21906 of 1998

Dated 03-10-2007

Between:

The Depot Manager, APSRTC, Tanduru depot, Ranga Reddy district.

..... PETITIONERS

AND

The Labour Court-III, Hyderabad & another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.21906 of 1998

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ORDER:
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Aggrieved by the award of the Labour Court-III, Hyderabad, in I.D.No.92 of 1996 dated 12-02-1997, the petitioner-Corporation is before this Court.

The second respondent-workman was unauthorisedly absent from duty for 47 days i.e. from 01-05-1993 to 16-06-1993 without intimation or prior sanction of leave. The workman, a driver in the Corporation, contended that he did not attend duty since he suffered from Jaundice and, though he had produced medical certificate, he was removed from service by order dated 15-11-1993. The Labour Court, while noting that the unauthorized absence was only for 47 days, held that in view of the evidence of the workman that he was suffering from Jaundice, it was not a fit case to remove him from service. The Labour Court, in exercise of its jurisdiction under Section 11-A of the Industrial Disputes Act, substituted the punishment of removal from service with that of reinstatement into service with all attendant benefits but without backwages in its award dated 12-02-1997. As a result of the award, the second respondent-workman has been denied backwages for a period of more than three years.

It is contended before this Court by the learned standing counsel for the petitioner-Corporation that directing reinstatement of the workman, who was unauthorisedly absent from duty, would result in further indiscipline in the organization and encourage others to indulge in similar acts of misconduct. Learned standing counsel would submit that the Labour Court was not justified in interfering with the punishment imposed by the Corporation for proved

misconduct of unauthorized absence from duty.

While the Labour Court, in exercise of its jurisdiction under Section 11-A of the Industrial Disputes Act, has the power to interfere with the quantum of punishment, and in appropriate cases to modify the punishment, such interference cannot be as a matter of course or on grounds of misplaced sympathy. Not all cases, where the Labour Court exercises its jurisdiction to interfere with the punishment, would necessitate interference by this Court in certiorari proceedings under Article 226 of the Constitution of India. It is only if the punishment as substituted by the Labour Court is one which shocks its conscience or one which cannot be imposed at all, would this Court be justified in interfering with the award. In the case on hand, it cannot be said that the punishment substituted by the Labour Court, of denying backwages for a period of three years to the second respondent-workman for his unauthorized absence of 47 days on account of Jaundice, is one such case which necessitates interference by this Court under Article 226 of the Constitution of India.

The writ petition is devoid of merit and is, accordingly, dismissed. However, in the circumstances, without costs.

03-10-2007

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